

§ 10.25

shall be treated in all respects as if they had been raised in the pleadings.

[41 FR 2511, Jan. 16, 1976, as amended at 63 FR 55791, Oct. 19, 1998]

§ 10.25 Form of pleadings.

All averments of claim and defense shall be made in consecutively numbered paragraphs. The contents of each paragraph shall be limited as far as practicable to a single set of circumstances.

§ 10.26 Motions and other papers.

(a) *Presentation.* An application for a form of relief not otherwise specifically provided for in these rules shall be made by motion, filed with the Proceedings Clerk, which shall be in writing unless made on the record during a hearing. The motion shall state: (1) The relief sought; (2) the basis for relief; and (3) the authority relied upon. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. All motions and applications, unless otherwise provided in these rules, shall be directed to the Administrative Law Judge prior to the filing of an initial decision in a proceeding, and to the Commission after the initial decision has been filed.

(b) *Answers to motions.* Any party may serve and file a written response to a motion within ten days after service of the motion upon him or within such longer or shorter period as established by these rules or as the Administrative Law Judge or the Commission may direct. The absence of a response to a motion may be considered by the Administrative Law Judge or the Commission in deciding whether to grant the requested relief.

(c) *Motions for procedural orders.* Motions for procedural orders, including motions for extension of time, may be acted on at any time, without awaiting a response thereto. Any party adversely affected by such order may request reconsideration, vacation or modification of the order.

(d) *Dilatory motions.* Repetitive or numerous motions dealing with the same subject matter shall not be permitted.

(e) *Review by the Commission.* Interlocutory review by the Commission of a ruling on a motion by an Adminis-

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trative Law Judge may be sought in accordance with the procedures and under the circumstances set forth in § 10.101 of these rules.

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Subpart C—Parties and Limited Participation

§ 10.31 Parties.

The parties to an adjudicatory proceeding shall include the Division of Enforcement, each respondent named in the complaint and each person permitted to intervene pursuant to § 10.33 of these rules. A respondent shall cease to be a party or purposes of a pending proceeding when (a) a default order is entered against him pursuant to § 10.93; or (b) the Commission accepts an offer of settlement pursuant to § 10.108 of these rules.

§ 10.32 Substitution of parties.

Upon motion and for good cause shown the Administrative Law Judge may order a substitution of parties.

§ 10.33 Intervention as a party.

(a) *Petition for Leave to Intervene.* Any person whose interests may be affected substantially by the matters to be considered in a proceeding may petition the Administrative Law Judge for leave to intervene as a party in the proceeding any time after the institution of a proceeding and before such proceeding has been submitted for final consideration. Petitions for leave to intervene shall be in writing and shall set forth with specificity the nature of the petitioner's interest in the proceeding and the manner in which his interests may be affected substantially. The Administrative Law Judge may direct a petitioner requesting intervention to submit himself for examination as to his interest in the proceeding.

(b) *Response to petition.* A petition for leave to intervene shall be served by the petitioner upon all parties to the proceeding, who may support or oppose the petition in a document filed within ten days after service of the petition upon them or within such other period